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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

RICARDO ORTIZ,

Defendant and Appellant.

B295033

(Los Angeles County
Super. Ct. No. YA098665)

APPEAL from a judgment of the Superior Court of Los Angeles County, Brad Fox, Judge. Affirmed.

William Paul Melcher, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance by Plaintiff and Respondent.

INTRODUCTION

Defendant Ricardo Ortiz appeals his conviction for grand theft of an automobile following a jury trial. Appointed counsel on appeal filed an opening brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). We affirm.

FACTS AND PROCEDURAL BACKGROUND

On the morning of April 3, 2018, the victim parked his vehicle on the street outside of his place of work. At 2:30 p.m., the victim's coworker saw the victim's vehicle being towed by a small, old Chevrolet pickup truck with a homemade-looking hook and straps connected to its rear for towing. The coworker notified the victim that his car was being towed and then drove the victim to look for his truck.

About a half mile from their work place, the coworker and victim spotted the victim's vehicle in a Jack-in-the-Box restaurant parking lot. The victim's vehicle was still attached to the truck. The truck appeared to be one used to pick up garbage or scrap metal, and had a homemade-looking hook with straps connected to its rear. Defendant was behind the wheel of the tow truck and a man was standing at the back of the truck when the victim arrived. When the victim confronted the man standing at the back of the truck, the man attempted to unhitch the two vehicles and stated to the victim that someone had told him to move the victim's vehicle because it was obstructing traffic. Defendant exited the vehicle and helped the man unhitch the victim's vehicle. The victim's vehicle sustained scratches and marks on the tailgate as a result of the towing.

When police arrived, defendant told them that the victim's vehicle was blocking their egress and that defendant and his associate towed it out of the way. Inside the pickup truck driven by defendant, police found a tool used to enter locked vehicles. Defendant and his associate were arrested. Police later viewed

surveillance video from the victim's work place. It showed the pickup truck towing the victim's vehicle away from the location where the victim had parked it.

On August 30, 2018, the People filed an information charging defendant with a single count of grand theft of an automobile in violation of Penal Code section 487, subdivision (d)(1). The information further alleged that defendant had sustained a prior serious and/or violent felony conviction within the meaning of Penal Code sections 667, subdivision (b) and 1170.12.

The case went to trial in October 2018. The victim, his coworker, and the investigating police officer testified. Defendant presented no evidence. On November 2, 2018, defendant was convicted by a jury.

At sentencing, defendant admitted a 2005 conviction for kidnapping in violation of Penal Code section 207. Defendant was sentenced to two years on count one, doubled pursuant to defendant's prior strike conviction. Defendant received credits and various fines and fees were imposed, including a court operations assessment fee, conviction assessment fee, restitution fine, and crime prevention fund fine. On January 3, 2019, defendant filed a timely notice of appeal.

On May 20, 2019, acting upon the request of defense counsel pursuant to Penal Code section 1237.2 and under *People v. Duenas* (2019) 30 Cal.App.5th 1157, the superior court ordered that the fines and fees imposed upon appellant be waived after finding that appellant lacked the ability to pay.

On June 12, 2019, defendant's appointed counsel filed a brief pursuant to *Wende, supra*, 25 Cal.3d 436, in which no issues were raised. The brief included a declaration from counsel that he reviewed the record and sent defendant a letter advising him that such a brief would be filed and that he could file a

supplemental brief if he chose to. On June 13, 2019, this court sent defendant a letter advising him that a *Wende* brief had been filed and that he had 30 days to submit a brief raising any issues he wanted us to consider. Defendant did not file a supplemental brief.

DISPOSITION

We have examined the entire record and are satisfied that defendant's attorney fully complied with his responsibilities and that no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259; *Wende, supra*, 25 Cal.3d 436.) We affirm the judgment.

RUBIN, P. J.

WE CONCUR:

MOOR, J.

KIM, J.